

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Steven McKelvey,

Petitioner,

v.

United States of America,

Respondent.

C/A No. 6:03-1764-GRA

ORDER
(Written Opinion)

Petitioner moves this Court to issue a certificate of appealability under 28 U.S.C. § 2253(c)(2). Petitioner previously moved before this Court for a certificate of appealability pursuant to § 2253(c)(2) on July 22, 2005. This Court denied Petitioner's motion by Order filed August 23, 2005. This Court has considered the Petitioner's current motion and denies the Petitioner's second request for a certificate of appealability.

Petitioner brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Haines v. Kerner*, 404 U.S. 519, 520 (1972).

II. DISCUSSION

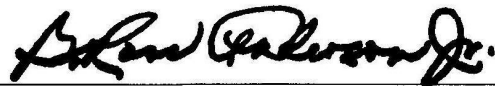
A certificate of appealability will not issue for claims addressed by a district court

on the merits absent a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Petitioner alleges he has made such a showing. However, petitioner's request for a certificate of appealability is absolutely devoid of any valid argument or support for this contention. "[W]here a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Miller-El v. Cockrell*, 123 S. Ct. 1029, 1040 (2003). Accordingly, the burden is on the petitioner to make such a showing and he has failed to do so. Further, this Court denied petitioner's previous motion for a certificate of appealability on August 23, 2005, finding that the petitioner failed to make the requisite showing.

III. CONCLUSION

Petitioner has not shown the he meets the standard required to issue a certificate of appealability. Therefore, petitioner's motion for a certificate of appealability is DENIED.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

October 19, 2005

NOTICE OF RIGHT TO APPEAL

Petitioner has the right to appeal this Order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, will waive the right to appeal.